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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,353	02/23/2004	Kenneth L. Miller	075234.0131	2325
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BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			HSU, RYAN	
			ART UNIT	PAPER NUMBER
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DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NY

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/784,353	MILLER, KENNETH L.
	Examiner Ryan Hsu	Art Unit 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 30 September 2005.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-29 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-29 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/9/2005.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

In response to the amendments filed on 9/30/05, claims 1-13 have been amended and 14-29 have been added. Claims 1-29 are pending in the current application.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 4-5, and 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Boylan, III et al. (USPN 6,712,701).**

In reference to claims 1 and 9, Boylan discloses an interactive wagering system and process that is used for executing transactions with racing wagers. It uses information provided by totalisators to provide racing information such as odds and up to date race information on events while the user is placing odds (*see abstract*). The system allows for the user to place wagers using a GUI (graphic-user interface) to lead a wagerer through the process of selecting a number of events to be included in their wager (ie: several different racetracks or different racing sports) (*see FIG. 6 and the related description thereof, col. 5: ln 6-26*). Boylan's system presents the user with a plurality of

options and types of wagers to be made that includes a predetermined quantity of event's to be included in a wager (*ie: pick 3, pick 5*). Additionally, Boylan allows a player to choose which of the event's races the player would like to make a wager on (*ie: which races at the different race tracks they would like to participate*). Furthermore, Boylan allows the wager transaction to allow the player to select whom they believe the winners will be and paying the player if the player's choices win the races the player has chosen (*see FIG. 6(a-b) and the related description thereof*). Furthermore, Boylan implements his wagering service on a computer networked system that allows for pooling, which constitutes a portion of each amount wagered to form a pool of money (*see col. 5: ln 59-col. 6: ln 24*). The pools are monitored by the totalisators, which inherently communicate with the different racetracks and provide up to date information on the results of races. This information is then linked up to the database in Boylan's system and identifies the winners that have selected the correct results and returns at least a portion of the money within the pool to one or more of the winners if one or more winners exists (*see col. 5: ln 58-col. 6: ln 15*).

Claims 4-5, Boylan provides an interactive wagering service that links up a player's wagers to an account wherein the player is paid if the player's winners win all or some of the races in the wagers they have selected (*see col. 5: ln 5-27, col. 7: ln 62-col. 8: ln 12*).

Claim 10-13, Boylan's system links up the selected results of the game card/form in its transaction database where all of the player's selections of predicted winners for each race are logged and tracked (*see col. 5: ln 5-27*). This data is transferred to the computer, which is then stored in the database. The results of the racing events are input

into the computer through the totalisators that constantly update and feed information into the system (*see col. 7: ln 62-67, col. 8: ln 1-12*). Furthermore, Boylan's system allows users to place wagers on various races from several different racetracks, therefore allowing the subset of races to be from nonconsecutive races (*see col. 5: ln 59-col. 6: ln 24*).

**Claims 14-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Scarne's New Complete Guide To Gambling (1974).**

Regarding claim 14, Scarne discloses a wager in an event having races, the wager comprising a bet that an entry in each of a plurality of races chosen by a bettor will be a winning entry (*see "Daily Double" Scarne, pg. 40*).

Regarding claim 15, Scarne discloses a method on an event having a plurality of event contests, the method comprising: selecting a predetermined quantity of the event contests for a wager; receiving from a user a selection from among the event contests to be included in the wager, the number of selected event contests (*see Scarne, pg. 40*).

Regarding claims 16-19, Scarne discloses a method further comprising receiving from the user a bet on the selected contestants. Scarne discloses the bets being paid to the user if at least one of the selected contestants wins a corresponding selected event contest. Furthermore, Scarne discloses a method comprising of changing the predetermined quantity after at least one contest has been run (*see "Twin Double" Scarne, pg. 40*).

Regarding claim 20, Scarne discloses wherein the changed predetermined quantity is equal to the number of remaining contests (*see Scarne, pg. 40*).

Regarding claim 21-22, Scarne discloses a method of allowing bets wherein the changed predetermined quantity is less than a total number of contests in the event.

Regarding claim 23, Scarne discloses a method comprising paying the user if a pre-selected quantity of the selected contestants wins a corresponding selected event contest (*see “5-6 sweepstake pool” Scarne, pg. 40*).

Regarding claim 24, Scarne discloses a method comprising paying the user if at least one of the selected contestants places in a corresponding selected event contest (*see elements 1-10 of Scarne, pg. 40*).

**Claims 25-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Brenner et al. (US 5,830,068).**

Regarding claims 25-26, Brenner discloses a system for betting on an event having a plurality of event contests (*see Fig. 1 and the related description thereof*). Brenner's system comprises a processor operable to determine a predetermined quantity of the event contests for a wager; and an interface coupled to the processor and operable to receive from a user a selection from among the event contests to be included in the wager, the number of selected event contests corresponding to the predetermined quantity and receive from the user a selection of contestants corresponding to each of the selected event contests (*ie: wagering tickets*) (*see col. 15: ln 10-col. 16: ln 20*). Additionally, Brenner's system implements an interface that is operable to receive from the user a bet on the selected contestants (*see col. 11: ln 4-32*).

Regarding claim 27-28, Brenner et al. discloses a system for betting on a plurality of event contests using logic embodied in a computer readable medium (*see ROM [134] of Fig. 2 and the related description thereof*). Brenner's system implements the computer readable medium by using code operable to select a predetermined quantity of the event contests for a wager, receive from a user a selected from among the event contests to be included in the wager, the number of selected event contests corresponding to the predetermined quantity and receive from the user a selection of contestants corresponding to each of the selected event contests (*see col. 15: ln 10-col. 16: ln 20*). Additionally, Brenner is operable to receive from the user a bet on the selected contestants (*see col. 11: ln 4-32*).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2-3, 6-8, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boylan III et al as applied to claims above, and further in view of Brenner et al. (US 5,830,068).**

Claims 2-3, 6-7 and 29, Boylan provides a wagering system for gambling on horse races however does not provide limitations for the quantity of event's races to be included then a game to be less than the number of races in the event. Boylan offers instead a user the ability to participate in none or all of the events and any of the other

various increments in between that are provided in its system thus encompassing the limitations found in the current application. Additionally, Boylan allows for a user to place a bet on the selected winners. Boylan lacks in disclosing an ability to limit the number of races in a wager to five.

However, Brenner in an analogous wagering system discloses a limitation where a wager queue is used to transmit information from the terminals to the database. Brenner discloses that in its system a user may place additional wagers but is limited by the state of the queue to five wagers per form (*see col. 12: ln 9-26*). Brenner states that the wager queue is physically limited to space for five wagers before any additional wagers can be added (*see col. 12: ln 9-26*). One would be motivated to implement this limitation in order to reduce the load placed on the processor so that it would not be inundated with information at one time. By creating a number by which to limit the wagers Brenner creates an upper threshold with which the number of races are limited by a predetermined quantity. Therefore it would be obvious to one of ordinary skill in the art at the time of the invention to modify Boylan to incorporate this physical limitation into its analogous wagering system, wherein the number selected for the quantity of the event's races to be included in the game is less than the number of races in the event and the number is five (*see FIG. 8-12 and related description thereof*).

Regarding claim 8, Boylan and Brenner both implement systems that allow for users to place wagers on sporting events (*see col. 11: ln 15-45*). It is old and well known in the gambling arts that any type of denomination may be made by the user as long as the user can produce the amount wagered. It is typical for most odds in horse wagers to be made so that a dollar is the minimum bet (*ie: 1-1, 2-1, 4-1 odds*). Therefore it would

have been obvious to one of ordinary skill in the art at the time of the invention to implement a wagering system where the wagers taken must be at least one dollar (*see Select Bet Amount of Fig. 48 and the related description thereof*).

***Response to Arguments***

Applicant's arguments filed on 9/30/05 with regards to claims 1-13 have been fully considered but they are not persuasive. With regard to claim 8, Applicant's representative states that the Office Action did not clarify. The Examiner apologizes for the lack of clarification and has stated a more detailed rejection above. With regard to claims 1 and 9, Applicant's representative argues that Boylan fails to disclose, teach or suggest "allowing a player to choose a plurality of the event's races to be included in the wager, the number of chosen races corresponding to the predetermined quantity". Examiner respectfully disagrees. Boylan is a wagering system devised to allow for a plurality of users to place wagers on sporting events. As a result it is inherent to offer a plurality of different types of wagers. Many common wagers in the gambling arts such as the daily double constitute allowing a player to choose a plurality of the event's races and the number of races included in the wager is of a predetermined quantity. With regard to claims 2-3, Applicant argues that the Boylan-Brenner combination fails to show a case where the system is able to limit the number of races included in one wager. Inherently, the system allows for number of races to be limited per "game ticket" as is standard in the wagering devices. However Brenner also implements a number of event races to be included on the same ticket. In the case of Brenner that number is limited to five or the maximum number in a queue. Therefore, five different combination of basic wagers can

be included in the same ticket and therefore limit the number of event races to be included in the one ticket or game card.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Mindes (US 5,573,244) – System and Method For Wagering At Fixed Handicaps and Odds On a Sports Event.**

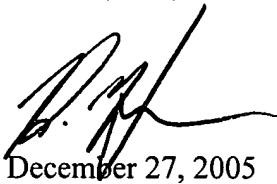
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Hsu whose telephone number is (571)272-7148. The examiner can normally be reached on 9:00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on (571)272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
December 27, 2005

JOHN M. HOTALING, II  
PRIMARY EXAMINER